8. For the period July 1, 2000 through June 30, 2001, transition rates for county nursing facilities will be the higher of the case-mix rate for each respective quarter or the facility transition rate identified in paragraph (7), trended forward 12 months by a factor equal to the HCFA Nursing Home without Capital Market Basket Index as published in the fourth quarter 1999 issue of the DRI McGraw-Hill publication "Health Care Costs."

9. For the period July 1, 2001 through June 30, 2002, transition rates for county nursing facilities will be the higher of the case-mix rate for each respective quarter or the facility transition rate identified in paragraph (8), trended forward 12 months by a factor equal to the HCFA Nursing Home without Capital Market Basket Index as published in the fourth quarter 2000 issue of the DRI McGraw-Hill publication "Health Care Costs."

10. For the period July 1, 2002 through June 30, 2003, transition rates for county nursing facilities will be the higher of the case-mix rate for each respective quarter or the facility transition rate identified in paragraph (9), trended forward 12 months by a factor equal to the HCFA Nursing Home without Capital Market Basket Index as published in the fourth quarter 2001 issue of the DRI McGraw-Hill publication "Health Care Costs."

11. For the period January 1, 1996, through June 30, 1996, general nursing facilities other than hospital-based, special rehabilitation and county nursing facilities, will be provided a transition rate. The transition rate for each general nursing facility for each calendar quarter during the time period January 1, 1996, through June 30, 1996, will be the higher of the facility case-mix rate for that quarter or a July 1, 1994, facility blended rate. The facility blended rate is a composite of the skilled care and intermediate care interim per diem rates in effect on July 1, 1994, weighted by the reported MA days associated with the respective acuity levels.

§ 1187.96. Price and rate setting computations.

(a) Using the NIS database in accordance with this subsection and § 1187.91 (relating to database), the Department will set prices for the resident care cost category.

(1) The Department will use each nursing facility's cost reports in the NIS database to make the following computations:

STATE Pennsylvania DATE REC'D 11/26/02 DATE APPV'D 6/9/03 DATE EFF 10/1/02 HCFA 179	A

(i) The total resident care cost for each cost report will be divided by the total facility CMI from the available February 1 picture date closest to the midpoint of the cost report period to obtain case-mix neutral total resident care cost for the cost report year.

(ii) The case-mix neutral total resident care cost for each cost report will be divided by the total actual resident days for the cost report year to obtain the case-mix neutral resident care cost per diem for the cost report year.

(iii) For year 2 of implementation, using the NIS database in accordance with § 1187.91(1)(ii), the Department will calculate the 2- year arithmetic mean of the case-mix neutral resident care cost per diem for each nursing facility to obtain the average case-mix neutral resident care cost per diem of each nursing facility. Using the NIS database in accordance with § 1187.91(1)(iii), subparagraph (iv) applies.

(iv) For year 3 of implementation and thereafter, the Department will calculate the 3-year arithmetic mean of the case-mix neutral resident care cost per diem for each nursing facility to obtain the average case-mix neutral resident care cost per diem of each nursing facility.

(2) The average case-mix neutral resident care cost per diem for each nursing facility will be arrayed within the respective peer groups, and a median determined for each peer group.

(3) The median of each peer group will be multiplied by 1.17, and the resultant peer group price assigned to each nursing facility in the peer group.

(4) The price derived in paragraph (3) for each nursing facility will be limited by § 1187.107 (relating to limitations on resident care and other resident related cost centers) and the amount will be multiplied each quarter by the respective nursing facility MA CMI to determine the nursing facility resident care rate. The MA CMI picture date data used in the rate determination are as follows: July 1 rate - February 1 picture date; October 1 rate - May 1 picture date; January 1 rate - August 1 picture date; and April 1 rate - November 1 picture date.

(b) Using the NIS database in accordance with this subsection and § 1187.91, the Department will set prices for the other resident related cost category.

STATE Pennsylvania DATE REC'D 11/26/02 DATE APPV'D 6/9/03 DATE EFF 10/1/02 HCFA 179	A

(1) The Department will use each nursing facility's cost reports in the NIS database to make the following computations:

(i) The total other resident related cost for each cost report will be divided by the total actual resident days for the cost report year to obtain the other resident related cost per diem for the cost report year.

(ii) For year 2 of implementation, using the NIS database in accordance with § 1187.91(1)(ii), the Department will calculate the 2-year arithmetic mean of the other resident related cost for each nursing facility to obtain the average other resident related cost per diem of each nursing facility. Using the NIS database in accordance with § 1187.91(1)(iii), subparagraph (iii) applies.

(iii) For year 3 of implementation and thereafter, the Department will calculate the 3-year arithmetic mean of the other resident related cost for each nursing facility to obtain the average other resident related cost per diem of each nursing facility.

(2) The average other resident related cost per diem for each nursing facility will be arrayed within the respective peer groups and a median determined for each peer group.

(3) The median of each peer group will be multiplied by 1.12, and the resultant peer group price assigned to each nursing facility in the peer group. This price for each nursing facility will be limited by § 1187.107 to determine the nursing facility other resident related rate.

(c) Using the NIS database in accordance with this subsection and § 1187.91, the Department will set prices for the administrative cost category.

(1) The Department will use each nursing facility's cost reports in the NIS database to make the following computations:

(i) The total actual resident days for each cost report will be adjusted to a minimum 90% occupancy, if applicable, in accordance with § 1187.23 (relating to nursing facility incentives and adjustments).

(ii) The total allowable administrative cost for each cost report will be divided by the total actual resident days, adjusted to 90% occupancy, if applicable, to obtain the administrative cost per diem for the cost report year.

STATE Pennsylvania	
DATE REC'D 11/26/02	
DATE APPV'D 6/9/03	A
DATE EFF 10/1/02	
HCFA 179	

(iii) For year 2 of implementation, using the NIS database in accordance with § 1187.91(1)(ii), the Department will calculate the 2-year arithmetic mean of the administrative cost for each nursing facility to obtain the average administrative cost per diem of each nursing facility. Using the NIS database in accordance with § 1187.91(1)(iii), subparagraph (iv) applies.

(iv) For year 3 of implementation and thereafter, the Department will calculate the 3-year arithmetic mean of the administrative cost for each nursing facility to obtain the average administrative cost per diem of each nursing facility.

(2) The average administrative cost per diem for each nursing facility will be arrayed within the respective peer groups and a median price determined for each peer group.

(3) The median of each peer group will be multiplied by 1.04, and the resultant peer group price will be assigned to each nursing facility in the peer group to determine the nursing facility's administrative rate.

(d) Using the NIS database in accordance with this subsection and § 1187.91(relating to database), the Department will set a rate for the capital cost category for each nursing facility by adding the nursing facility's fixed property component, movable property component and real estate tax component and dividing the sum of the three components by the nursing facility's total actual resident days, adjusted to 90% occupancy, if applicable.

(1) The Department will determine the fixed property component of each nursing facility's capital rate as follows:

(i) The Department will adjust the appraised depreciated replacement cost of the nursing facility's fixed property to account for the per bed limitation in § 1187.112 (relating to cost per bed limitation adjustment) and the bed moratorium addressed in § 1187.113 (relating to capital component payment limitation).

(ii) The Department will multiply the adjusted depreciated replacement costs of the fixed property by the financial yield rate to determine the fair rental value for the nursing facility's fixed property.

(iii) The nursing facility's fixed property component will equal the fair rental value of its fixed property.

(2) The Department will determine the movable property component of each nursing facility's capital rate as follows:

(i) When the nursing facility's most recent audited MA-11 cost report available in the NIS database for rate setting is for a cost report period beginning prior to January 1, 2001:

(A) The Department will multiply the depreciated replacement costs of the movable property by the financial yield rate to determine the fair rental value for the nursing facility's movable property.

(B) The nursing facility's movable property component will equal the fair rental value of its movable property.

(ii) When the nursing facility's most recent audited MA-11 cost report available in the NIS database for rate setting is for a cost report period beginning on or after January 1, 2001, the amount of the movable property component will be based upon the audited actual costs of major movable property as set forth in the most recent audited MA-11 cost report available in the NIS database. This amount is referred to as the nursing facility's most recent movable property cost.

(3) The Department will determine the real estate tax cost component of each nursing facility's capital rate based on the audited actual real estate tax cost as set forth in the most recent audited MA-11 cost report available in the NIS database.

(e) The nursing facility per diem rate will be computed by adding the resident care rate, the other resident related rate, the administrative rate and the capital rate for the nursing facility.

§ 1187.97. Rates for new nursing facilities, nursing facilities with a change of ownership, reorganized nursing facilities, and former prospective payment nursing facilities.

The Department will establish rates for new nursing facilities, nursing facilities with a change of ownership, reorganized nursing facilities and former prospective payment nursing facilities as follows:

(1) *New nursing facilities.*

(i) The net operating portion of the case-mix rate is determined as follows:

STATE PENNSYLVANIA	
DATE REC'D 11/26/02	
DATE APPV'D 6/9/03	A
DATE EFF 10/1/02	
HCFA 179	

(A) A new nursing facility will be assigned the Statewide average MA CMI until assessment data submitted by the nursing facility under § 1187.33 (relating to resident data reporting requirements) is used in a rate determination under § 1187.96(a)(4) (relating to price and rate setting computations).

(B) The nursing facility will be assigned to the appropriate peer group. The peer group price for resident care, other resident related and administrative costs will be assigned to the nursing facility until there is at least one audited nursing facility cost report used in the rebasing process.

(ii) For nursing facilities enrolled in the MA Program prior to January 1, 2001, the three components of the capital portion of the case-mix rate are determined as follows:

(A) The fixed property component will be determined in accordance with § 1187.96 (d)(1) (relating to price and rate setting computations).

(B)) The movable property component will be determined in accordance with § 1187.96 (d)(2).

(C) The real estate tax cost component will be determined based on the audited actual real estate tax cost

(iii) For nursing facilities enrolled in the MA Program on or after January 1, 2001, the three components of the capital portion of the case-mix rate are determined as follows:

(A) *Fixed property component.* The fixed property component will be determined in accordance with § 1187.96(d)(1).

(B) *Movable property component.* The movable property component will be determined as follows:

(I) The nursing facility's acquisition cost, as determined in accordance with § 1187.61(b) (relating to movable property cost policies), for any new items of movable property acquired on or before the date of enrollment in the MA program, will be added to the nursing facility's remaining book value for any used movable property as of the date of enrollment in the

STATE Pennsylvania
DATE REC'D 11/26/02
DATE APPV'D 4/9/03
DATE EFF 10/1/02
HCFA 179
A

MA program to arrive at the nursing facility's movable property cost. If the nursing facility does not have a depreciation schedule for its used movable property, the allowable cost for those items will be the depreciated replacement cost as determined by qualified personnel of the Department's independent appraisal contractor.

(II) The nursing facility's movable property cost will then be amortized equally over the first 3 rate years that the nursing facility is enrolled in the MA program to determine the nursing facility's movable property component of the capital rate.

(III) After the first 3 rate years the nursing facility's movable property component will be based on the most recent audited MA-11 cost report available in the NIS database. If no MA-11 is available in the NIS database, the nursing facility will not receive the movable property component of the capital rate.

(C) *Real estate tax component.*

(I) For the first 3 rate years, the new nursing facility real estate tax component will be the nursing facility's annual real estate tax cost as of the date of enrollment in the MA program.

(II) After the first 3 rate years, the real estate tax component will be based on the audited MA-11 cost report available in the NIS database. If no audited MA-11 cost report is available in the NIS database, the nursing facility will not receive the real estate tax component of the capital rate.

(iv) Newly constructed nursing facilities are exempt from the adjustment to 90% occupancy until the nursing facility has participated in the MA Program for one full annual price setting period as described in § 1187.95 (relating to general principles for rate and price setting).

(2) *Nursing facilities with a change of ownership and reorganized nursing facilities.*

STATE Pennsylvania DATE REC'D 11/26/02 DATE APPV'D 6/9/03 DATE EFF 10/1/02 HCFA 179	A

(i) *New provider.* The new nursing facility provider will be paid exactly as the old nursing facility provider. Net operating and capital rates for the old nursing facility provider will be assigned to the new nursing facility provider.

(ii) *Transfer of data.* Resident assessment data will be transferred from the old nursing facility provider number to the new nursing facility provider number. The old nursing facility's MA CMI will be transferred to the new nursing facility provider.

(iii) *Movable property cost policies.*

(A) The acquisition costs of items acquired by the old nursing facility provider on or before the date of sale are costs of the old nursing facility provider, and not the new nursing facility provider.

(B) Regardless of the provisions of any contract of sale, the amount paid by the new nursing facility provider to acquire or obtain any rights to items in the possession of the old nursing facility provider is not an allowable cost

(C) If the new nursing facility provider purchases an item from the old nursing facility provider, the cost of that item is not an allowable cost for cost reporting or rate setting purposes.

(D) If the new nursing facility provider rents or leases an item from the old nursing facility provider, the cost of renting or leasing that item is not an allowable cost for cost reporting or rate setting purposes.

(3) *Former prospective payment nursing facilities.* A nursing facility that received a prospective rate prior to the implementation of the case-mix payment system will be treated as a new nursing facility under paragraph (1) for the purpose of establishing a per diem rate.

SUBCHAPTER H. PAYMENT CONDITIONS, LIMITATIONS AND ADJUSTMENTS

§ 1187.101. General payment policy.

(a) Payment for nursing facility services will be subject to the following conditions and limitations:

STATE PENNSYLVANIA DATE REC'D 11/26/02 DATE APPV'D 6/9/03 DATE EFF 10/1/02 HCFA 179	A

(1) This chapter and Chapter 1101 (relating to general provisions).

(2) Applicable State statutes.

(3) Applicable Federal statutes and regulations and the Commonwealth's approved State Plan.

(b) Payment will not be made for nursing facility services at the MA per diem rate if full payment is available from another public agency, another insurance or health program or the resident's resources.

(c) Payment will not be made in whole or in part for nursing facility services provided during a period in which the nursing facility's participation in the MA Program is terminated.

(d) Claims submitted for payment under the MA Program are subject to the utilization review procedures established in Chapter 1101. In addition, the Department will perform the reviews specified in this chapter for controlling the utilization of nursing facility services.

§ 1187.102. Utilizing Medicare as a resource.

(a) An eligible resident who is a Medicare beneficiary, is receiving care in a Medicare certified nursing facility and is authorized by the Medicare Program to receive nursing facility services shall utilize available Medicare benefits before payment will be made by the MA Program. If the Medicare payment is less than the nursing facility's MA per diem rate for nursing facility services, the Department will participate in payment of the coinsurance charge to the extent that the total of the Medicare payment and the Department's and other coinsurance payments do not exceed the MA per diem rate for the nursing facility. The Department will not pay more than the maximum coinsurance amount.

(b) If a resident has Medicare Part B coverage, the nursing facility shall use available Medicare Part B resources for Medicare Part B services before payment is made by the MA Program.

(c) The nursing facility may not seek or accept payment from a source other than Medicare for any portion of the Medicare coinsurance amount that is not paid by the Department on behalf of an eligible resident because of the limit of the nursing facility's MA per diem rate.

(d) The Department will recognize the Medicare payment as payment in full for each day that a Medicare payment is made during the Medicare-only benefit period.

STATE PENNSYLVANIA DATE REC'D 11/26/02 DATE APPV'D 6/9/03 DATE EFF 10/1/02 HCFA 179	A

(e) The cost of providing Medicare Part B type services to MA recipients not eligible for Medicare Part B services which are otherwise allowable costs under this part are reported in accordance with § 1187.72 (relating to cost reporting for Medicare Part B type services).

§ 1187.103. Cost finding and allocation of costs.

(a) A nursing facility shall use the direct allocation method of cost finding. The costs will be apportioned directly to the nursing facility and residential or other facility, based on appropriate financial and statistical data.

(b) Allowable operating cost for general nursing facilities and county nursing facilities will be determined subject to this chapter and Medicare Provider Reimbursement Manual, HCFA Pub. 15-1, except that if this chapter and the HCFA Pub. 15-1 differ, this chapter applies.

§ 1187.104. Limitations on payment for reserved beds.

The Department will make payment to a nursing facility for a reserved bed when the resident is absent from the nursing facility for a continuous 24-hour period because of hospitalization or therapeutic leave. A nursing facility shall record each reserved bed for therapeutic leave on the nursing facility's daily census record and MA invoice. When the bed reserved for a resident who is hospitalized is temporarily occupied by another resident, a nursing facility shall record the occupied bed on the nursing facility's daily MA census record and the MA invoice. During the reserved bed period the same bed shall be available for the resident upon the resident's return to the nursing facility. The following limits on payment for reserved bed days apply:

(1) *Hospitalization.*

(i) A resident receiving nursing facility services is eligible for a maximum of 15 consecutive reserved bed days per hospitalization. The Department will pay a nursing facility at a rate of 1/3 of the nursing facility's current per diem rate on file with the Department for a hospital reserved bed day.

(ii) If the resident's hospital stay exceeds the Department's 15 reserved bed days payment limitation, the nursing facility shall readmit the resident to the nursing facility upon the first availability of a bed in the nursing facility if, at the time of readmission, the resident requires the services provided by the nursing facility.

(iii) Hospital reserved bed days may not be billed as therapeutic leave days.